

AUTHORITY: 45 U.S.C. 431, 432, and 438, as amended; 45 U.S.C. 22–34, as amended; Pub. L. 100–342; and 49 CFR 1.49 (c) and (m).

SOURCE: 41 FR 18657, May 6, 1976, unless otherwise noted.

Subpart A—General

§ 216.1 Application.

(a) This part applies, according to its terms, to each railroad which uses or operates a—

(1) Railroad freight car subject to part 215 of this chapter; or

(2) Locomotive subject to the Locomotive Inspection Act, as amended (45 U.S.C. 22–34).

(b) This part applies, according to its terms, to each railroad owning track subject to part 213 of this chapter.

[41 FR 18657, May 6, 1976, as amended at 54 FR 33229, Aug. 14, 1989]

§ 216.3 Definitions.

As used in this part—

(a) *FRA* means the Federal Railroad Administration.

(b) *State* means a State participating in investigative and surveillance activities under section 206 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435).

(c) *Inspector* includes FRA Regional Supervisors of Inspectors.

§ 216.5 Delegation and general provisions.

(a) The Administrator has delegated to the appropriate FRA and State personnel the authority to implement this part.

(b) Communications to the Administrator relating to the operation of this part should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Washington, DC 20590.

(c) The notices prescribed in §§ 216.11, 216.13, 216.15, and 216.21 of this part are issued on standard FRA forms indicating the particular subject matter. An inspector issues a notice by delivering it to an appropriate officer or agent immediately responsible for the affected locomotive, car, or track.

[41 FR 18657, May 6, 1976, as amended at 41 FR 43153, Sept. 30, 1976]

§ 216.7 Penalties.

Any person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad) who violates any requirement of this part or causes the violation of any such requirement is subject to a civil penalty of at least \$250 and not more than \$10,000 per violation, except that: Penalties may be assessed against individuals only for willful violations, and, where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty not to exceed \$20,000 per violation may be assessed. Each day a violation continues shall constitute a separate offense. See 49 CFR part 209, appendix A.

[53 FR 28599, July 28, 1988]

Subpart B—Special Notice for Repairs

§ 216.11 Special notice for repairs—railroad freight car.

(a) When an FRA Motive Power and Equipment Inspector or a State Equipment Inspector determines that a railroad freight car is not in conformity with the requirements of the FRA Freight Car Safety Standards set forth in part 215 of this chapter and that it is unsafe for further service, he notifies the railroad in writing that the car is not in serviceable condition. The Special Notice sets out and describes the defects that cause the car to be in unserviceable condition. After receipt of the Special Notice, the railroad shall remove the car from service until it is restored to serviceable condition. The car may not be deemed to be in serviceable condition until it complies with all applicable requirements of part 215 of this chapter.

(b) The railroad shall notify the Regional Director in writing when the equipment is returned to service, specifying the repairs completed.

(c) A railroad freight car subject to the notice prescribed in paragraph (a) of this section may be moved from the place where it was found to be unsafe for further service to the nearest available point where the car can be repaired, if such movement is necessary